

Historical Context, Studies, Legislation and Budget Actions...

Presentation to the Developmental Disabilities
Residential Services Advisory Group

October 20, 2005

Materials to be covered in this presentation:

- Brief history & timeline of major events affecting individuals with developmental disabilities
- Summary of key studies and reports
- Summary of recent budget and legislative actions



State & Federal Historical Perspective

Initially, state services to individuals with disabilities were provided through custodial schools. At the federal level, early legislation primarily focused on addressing physical disabilities.

- 1886: Territorial government established a school in Vancouver, Washington for individuals who were deaf, blind, and disabled.
- 1915: Lakeland Village (Medical Lake) opened for children with developmental disabilities.
- 1920: Federal Civilian Vocational Rehabilitation Act established.
- 1935: Social Security Act enacted.
- 1935: Rainier School (Buckley) opened.
- 1950: Social Security Amendments establish a state-federal program for the disabled.
- 1952: President's Committee on Employment of the Physically Handicapped
- 1954: Vocational Rehabilitation Amendments authorize federal grants to expand programs to persons with physical disabilities.
- 1958: Central Washington Tuberculosis Hospital in Selah was converted to Yakima Valley School.
- 1959: Fircrest School (Shoreline) opened on the site of a former naval and TB hospital.

The establishment of the Medicaid program and changes at the state level regarding public education created new opportunities for individuals with developmental disabilities.

- 1961: The President's Panel on Mental Retardation is created to look at various programs and system reforms.
- 1964: Civil Rights Act enacted.
- 1965: Medicare and Medicaid are established through the Social Security Amendments of 1965.
- 1970: Developmental Disabilities Services and Facilities Construction Amendments are passed – contains first legal definition of developmental disabilities, created the DD councils, university affiliated programs, and the protection and advocacy system.
- 1970: Creation of the Department of Social and Health Services.
- 1971: WA State Education for All legislation enacted. Establishes the right of children with disabilities to a public school education in an integrated environment.
- 1971: ICF/MR services are added as an optional service eligible for funding through the Medicaid program – new focus on habilitative services.
- 1972: Creation of the Social Security Income (SSI) program.

Legislation continued to be enacted during the 70's that provided greater civil rights. Amendments to the Medicaid program made federal funding available for services provided in the community.

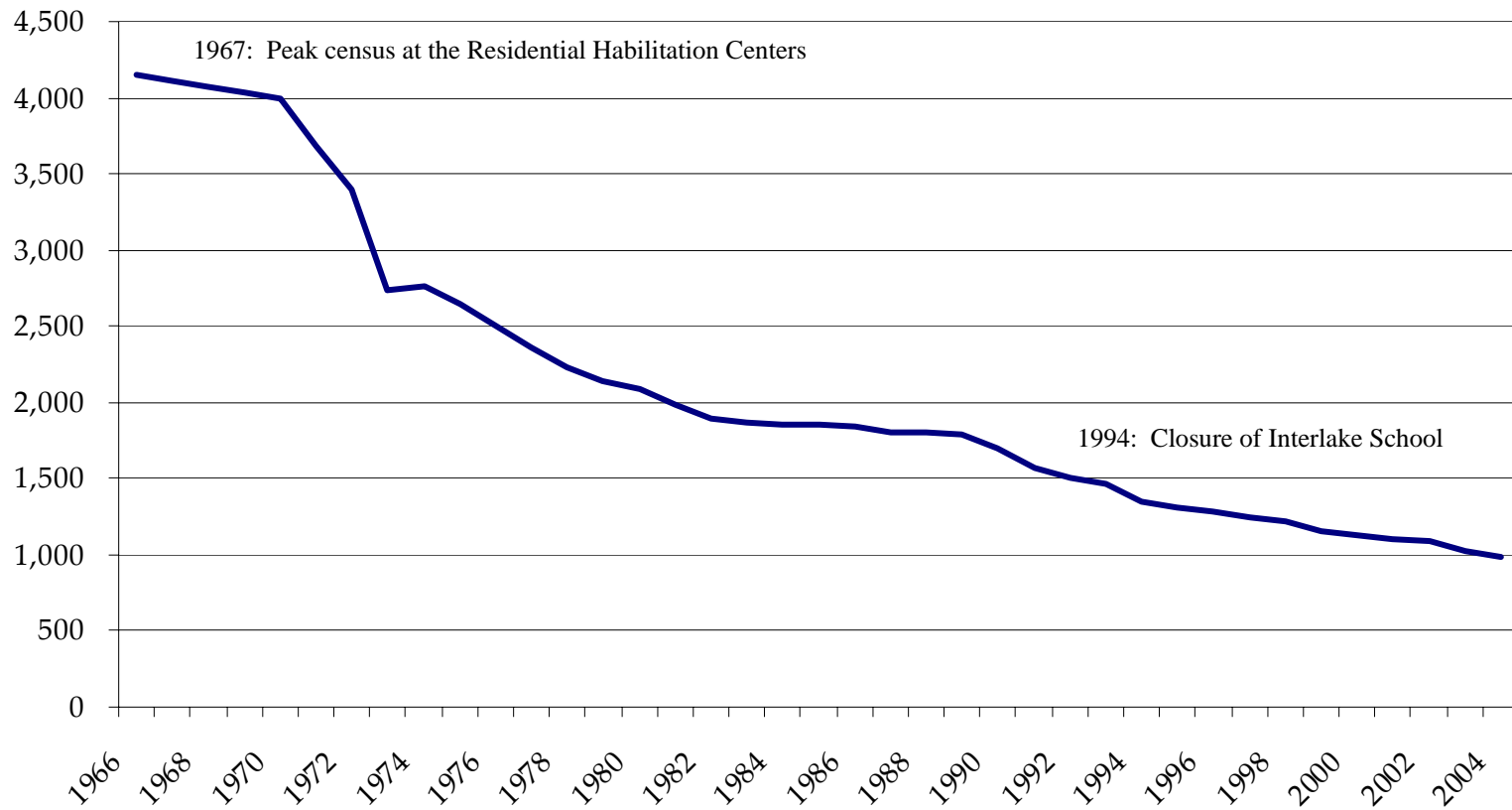
- 1972: Frances Haddon Morgan Center (Bremerton) opened as a children's center supporting children with autism (later became a residential facility).
- 1973: Passage of the Rehabilitation Act. Sec. 504 prohibits programs receiving federal funds from discriminating against “otherwise qualified handicapped” individuals.
- 1973: Washington changed its law to add freedom from discrimination based on the presence of any mental, sensory or physical handicap.
- 1975: Federal Education for All Handicapped Children enacted.
- 1980: Civil Rights of Institutionalized Persons Act enacted.
- 1981: Congress amends the Medicaid program to allow states to waive certain requirements & receive federal funds for home and community-based services.
- 1983: Community Alternatives Program (CAP) waiver is implemented in WA.
- 1983: Washington's “Froberg” law enacted – provides appeal rights to persons who oppose a move from a state institution to a community setting.
- 1988: Developmental disability services are codified in state statute (SHB 1616).
- 1990: Americans with Disabilities Act (ADA) enacted.

Greater community integration resulted in a shift towards de-institutionalization of persons with developmental disabilities.

- 1989: An increase in federal regulation results in five of six RHCs failing Medicaid certification.
- 1990: Education for All Handicapped Children Act is amended and renamed the Individuals with Disabilities Education Act (IDEA); State Operated Living Alternatives (SOLAs) are established.
- 1994: Closure of Interlake School.
- 1998: SSB 6751 expands the DD statutes.
- 1999: Olmstead v. L.C. decision requires states to administer services and programs in the “most integrated setting appropriate.”
- 1999-2004: Several lawsuits are filed in WA regarding services provided to persons with developmental disabilities (Arc of Washington v. Quasim, Allen v. Western State Hospital, Marr v. Eastern State Hospital).
- 1999: SB 5693 establishes the DD Endowment Fund.
- 2004: Washington’s Community Alternatives Program home and community-based waiver is replaced with four separate waivers.

The shift at both the state and national level towards de-institutionalization can be observed by the declining population at state-operated residential habilitation centers.

Washington DDD Institutional Historical Population (1966-2004)



State law has recognized the shift towards community services and acknowledges that persons with developmental disabilities require a variety of services.

- “The legislature recognizes that the emphasis of state developmental disability services is shifting from institutional-based care to community services in an effort to increase personal and social independence.” (RCW 71A.10.011)
- “The complexities of developmental disabilities require the services of many state departments as well as those of the community. Services should be planned and provided as part of a continuum. A pattern of facilities and services should be established, within appropriations for this purpose, which is sufficiently complete to meet the needs of each person with a developmental disability regardless of age or degree of handicap, and at each stage of the person’s development.” (RCW 71A.12.010)

Summary of Key Studies & Reports Regarding Residential Services

The issues of institution and community-based residential services have been subjects of numerous studies, including:

1. Residential Services for Persons with Developmental Disabilities (1991-1993)
2. Substitute Senate Bill 6751 (1998)
3. Developmental Disabilities Strategies for the Future Stakeholders Workgroup (1997-2002)
4. Capital Study of the DDD Residential Facilities (2002)
5. Planning for the Future of the Residential Habilitation Centers (2003)

Residential Services for Persons with Developmental Disabilities

Legislative Budget Committee (1991-1993)

- In 1990, the Legislative Budget Committee was directed to conduct an evaluation of state-operated and community-operated residential services:
 - Document the efforts of DSHS
 - Compare cost and quality of institution and community-operated services
 - Make recommendations on expansion of community programs
 - Make recommendations on the role of residential habilitation centers in the range of programs available to clients with developmental disabilities
- Report components include:
 - Comparison of Washington to 14 other states regarding residential costs
 - Information on 3 states with innovative approaches to the delivery of DD services (WI, MI, and NH)
 - Service needs data on over 400 adults with developmental disabilities – half in state-run facilities and half in the community
 - Comparison of costs in various DD residential settings

The LBC report made the following recommendations regarding DD services...

- **Recommendation 1:** Legislation should be enacted in the 1993 session that provides policy direction on the role of DD community services and state institutions.
- **Recommendation 2:** DSHS should develop a management plan that includes a specific operational plan to develop more cost-effective DD services that reach a larger population than currently served.
- **Recommendation 3:** The Legislature should consider providing more flexibility in DD funding that reduces or eliminates the distinction between institutional and community service funds, including a more neutral budget approach to downsizing.
- In addition, the LBC had 18 findings on various policy issues regarding services provided through the DD system.

Substitute Senate Bill 6751 (1998)

- The changing national and state direction of policy related to persons with developmental disabilities created tension in the DD community between supporters of community-based services and supporters of institutional services.
- SSB 6751 affirms the legislative commitment to clients with developmental disabilities “the opportunity to choose where they live” and “supports the existence of a spectrum of options, including community support services and residential habilitation centers.”
- The bill directed DSHS and the stakeholder workgroup to develop a long-term strategic plan on how to best meet the needs of people with developmental disabilities.

Substitute Senate Bill 6751 included the following provisions:

- The offer of RHC and community support services were linked to the availability of funds for community support services. (\$2 million appropriation in 1999-01 budget bill)
- Admissions to RHCs were limited when funds for community support are exhausted, regardless of RHC capacity.
- RHC capacity that is not needed for permanent residents can be used for respite care or other services for eligible clients.
- The capacity of community residential support services and RHC services was stabilized and could not be reduced below the budgeted capacity in the 1997-99 appropriations act, unless subject to budget direction from the Governor.
- Many of the provisions included in the bill expired June 20, 2003.

Developmental Disabilities Strategies for the Future Stakeholders Workgroup (1997-2002)

- In 1997, DSHS and a group of 19 stakeholders met to determine how services should be provided to people with developmental disabilities.
- Substitute Senate Bill 6751 directed the workgroup to develop a long-term strategic plan.
- **Phase 1 Report:** Focus was to stabilize current service availability and quality and to add new services at a sustainable rate. Recommended an increase of \$148 million (\$88.9 million state) in 1999-01. Identified unmet needs of \$447 million (\$262 million state).
- **Phase 2 Report:** Focus was on system restructuring and activities in all areas of service design, service delivery, and system administration. Reached consensus on using choice and self-determination as the foundation for restructuring supports and services. Four workgroups were formed to examine the following areas: choice, residential services, family and individual supports, and employment and day services.

Developmental Disabilities Strategies for the Future Stakeholders Workgroup (1997-2002)

- **Phase 3 Report:** The following recommendations were made:
 1. Stabilize the developmental disabilities system
 2. Implement system changes that encourage self-directed services
 3. Enact legislation that includes the following concepts:
 - A needs-based continuum of supports for families to allow persons with developmental disabilities to live at home
 - A choice-based safety net of residential options for children and adults whose needs are of such intensity that they cannot be cared for in the home
 - A recognition that when the family caregiver reaches age 60 or beyond there should be an alternate residential option available
 4. Use the stakeholders work on “The Future of the RHCs” as the basis for future use of RHCs

Capital Study of the DDD Residential Habilitation Centers

Joint Legislative Audit and Review Committee (2002)

- The 2001-03 Capital Budget directed JLARC to “conduct a study of the possible alternative uses of the land and facilities currently used by state operated residential habilitation centers and nursing facilities for persons with developmental disabilities.”
- JLARC conducted a real estate study, looking at current and potential alternative uses of the lands and buildings at the RHCs. The study did not review operational costs, resident placements, or institutional closure.
- JLARC contracted with professional real estate appraisers to:
 - Assess the current value and uses of the lands and buildings at each facility
 - Identify possible alternative uses for land and facilities
 - Estimate potential revenue that could be generated from alternative uses

Capital Study of the DDD Residential Habilitation Centers Joint *Legislative Audit and Review Committee (2002)*

Major Findings:

- Each RHC is not limited to serving only its current population.
- All of the RHCs are under-utilized and have some capacity for growth.
- All five campuses suffer some degree of functional or external obsolescence.
- Local zoning will impact potential alternative uses for each campus.
- The RHCs can be ranked in terms of their relative worth as institutions (value in current use):
 - 1) Rainier School
 - 2) Yakima Valley School
 - 3) Lakeland Village
 - 4) FH Morgan Center
 - 5) Fircrest School

Capital Study of the DDD Residential Habilitation Centers Joint *Legislative Audit and Review Committee (2002)*

■ Conclusions:

- Two of the facilities have potential alternative uses that could generate up to \$36 million to the state.
- Three facilities have little or no alternative use.
- The split land ownership at Fircrest School will need to be addressed.
- Three of the facilities have excess property that can be sold for approximately \$7.7 million.

■ Recommendations included:

- The state should develop options to dispose of excess property at Lakeland Village, Rainier School and Yakima Valley School.
- DSHS should provide a report to the Legislature addressing projected future institutional needs, anticipated changes in the type of care needed by residents, and alternative or combined use scenarios for each campus.

Planning for the Future of DDD Residential Habilitation Centers

Department of Social & Health Services (2003)

- DSHS' response to JLARC Capital Study
- Major components of the report:
 - Discussion of the experience in select other states in closing state-operated institutions (NM, NH, OR, and MN)
 - Descriptive information on the individuals with disabilities currently being served in the RHCs including: level of acuity (diagnosis), age, and length of stay
 - Review of the physical condition and capital needs of each RHC
 - Discussion of three future options for the RHCs:
 - Estimated operating and capital costs for each option
 - Evaluated possible impacts on clients, families, and state employees
 - Presented the pros and cons of each option

Planning for the Future of DDD Residential Habilitation Centers

Department of Social & Health Services (2003)

- **Option 1:** Reduce current RHC capacity
 - 5 different facility combinations (RHC, nursing facility, & community ICF/MRs)
 - Completion time of 8 to 15 years
 - Assumes a role for state-operated facilities & recognizes the on-going need for a structured respite care program
- **Option 2:** Complete closure of the RHCs
 - Expands the community system by 800 beds
 - Completion time of 10 to 15 years
- **Option 3:** Continue the current policy direction where some RHCs remain open, but with regularly funded downsizing and some admission capacity, until attrition and downsizing force additional consolidation and closure.
 - Assumes downsizing of 50 beds per biennium
 - Respite capacity is maintained
 - Completion time of 25-30 years



Summary of Recent Legislation & Budget Actions Regarding Residential Services

1999 -2001 Biennium

- Some funding was provided to enhance services based on the priorities established by the Stakeholder Advisory Group (Phase 1 report).
- Funding for residential services for:
 - 48 clients with community protection issues
 - 80 clients in state psychiatric hospitals who need community services or who were discharged in 1999
 - 83 young adults aging out of children's foster homes
- Funding was provided to create residential settings and a state hospital diversion program for persons with developmental disabilities and mental illness.
- Funding to increase rates for community residential placements in adult family homes.
- Vendor rate increase to providers of 2% in FY2000 & FY2001.

2001-2003 Biennium

- Funding was provided for 80 RHC clients to move to community residential settings in response to the Olmstead decision.
- Savings were assumed through the consolidation of cottages at the RHCs due to attrition and increased community placements. Six cottages were closed. (Rainier-4, Yakima-1, Fircrest-1)
- Funding for 11 additional respite beds at Yakima Valley School.
- Funding for residential placements:
 - 18 individuals leaving state psychiatric hospitals
 - 30 individuals in crisis who are using diversion beds
 - 26 individuals leaving the Department of Corrections
- Funding was provided to settle the ARC v. Quasim lawsuit by enhancing residential services, family support, employment and day services, caseworkers, and waiver management staff (the court later refused to certify the class and funding was reduced).
- Vendor rate increase to providers of 2.1% in FY2002 & 1.5% in FY2003.

2003-2005 Biennium

- Funding provided for 43 clients to receive residential and support services
Priority populations for funding include:
 - residents of RHCs who can be adequately cared for in a community setting
 - clients without residential services who are in crisis
 - children who are aging out of other state services
 - current community clients who have been assessed as having an immediate need for increased services

- Funding provided for 31 clients with community protection issues who:
 - Are being diverted or discharged from state hospitals
 - Participate in the Dangerous Mentally Ill Offender program
 - Participate in the community protection program
 - Mental health crisis diversion placements

2003-2005 Biennium (continued)

- Fircrest Downsizing:
 - Assumed that 80 Fircrest residents will be moved to other facilities or community settings.
 - Vacancies were consolidated across RHCs and four cottages were assumed to close at Fircrest School.
 - As of June 2005, 82 Fircrest residents have moved:
 - 39 to other RHCs
 - 36 to Supported Living Community Placements
 - 2 to SOLAs
 - 5 to Nursing Facilities
- Vendor rate increase of 2.4% to only residential providers (7/1/2004).
- Funding for the development of a common assessment tool.

2005-2007 Biennium

- Governor Locke's budget proposed closure of Fircrest School by the end of the 2005-07 biennium. Governor Gregoire and the Legislative budgets did not close Fircrest School.
- Continued prioritization of new community residential
 - Funding for 35 clients with community protection issues
 - Funding for residential and support services for 39 clients
- Funding for the development of a case management system.
- Vendor rate increase of 1.0% for all providers in FY2006 and FY2007.
- HB 1791 enacted – creates the Dan Thompson Memorial Developmental Disabilities Trust Account.
- \$182,000 in the Office of Financial Management's budget for study of DD residential services.